

Applicants: Mangin et al.
Application No.: 10/696,845
Attorney Docket No.: 792-114 RCE

REMARKS

Reconsideration of the above-identified application, including claims 1 to 38, in view of the following Remarks is requested. Claims 5 to 7, 15 to 17, 24, 25, 28, 29, 31, 32, and 34 have been withdrawn.

Claim 1

Claim 1 has been rejected under 35 U.S.C. § 103(a) based on U.S. Patent No. 5,653,748 (Strecker) in view of U.S. Patent Application Publication No. US 2003/0121148 (DiCaprio) (Office Action, p. 2). Claim 1, as amended herein, defines an apparatus for use by an operator in a cavity of a mammalian body with a scope having a distal face providing a field of view. A flexible elongate member has a distal extremity adapted for extending into the cavity, and a proximal extremity accessible from outside of the mammalian body when the distal extremity is disposed in the cavity. The apparatus includes an expandable prosthesis having first and second ends, and means for releasably securing the prosthesis to the distal extremity of the flexible elongate member. A visual marker has an outer surface which, when illuminated by non-X-ray containing light, has a first color. The visual marker overlies the prosthesis intermediate the first and second ends, and is capable of being seen by the operator in the field of view secured to one of the distal extremity of the flexible elongate member and the prosthesis for facilitating placement of the prosthesis in the mammalian body. The means for releasably securing the prosthesis has an outer surface which, when illuminated by non-X-ray containing light, has a

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second color. The first color of the visual marker is visually distinct from the second color of the means for releasably securing the prosthesis.

The illumination of the outer surfaces of the visual marker, and means for releasably securing the prosthesis by non-X-ray containing light is disclosed in the above-identified application, at p. 5, lines 4 to 6, p. 8, lines 1 to 2.

The illumination of the outer surfaces of the visual marker, and means for releasably securing the prosthesis by non-X-ray containing light defined by claim 1, as amended herein, are not disclosed or suggested by Strecker in view of DiCaprio. “Strecker fails to disclose a visual marker comprising a colored loop extending around the prosthesis that is a different color than the releasing means”, according to the Office Action, at p. 2 to 3. DiCaprio, at ¶¶ [0001], [0037], and [0038], discloses radiopaque markers which are secured to intraluminal devices for viewing the devices “through a fluoroscope or other imaging device”. A fluoroscope uses X-rays to view radiopaque materials. Meriam-webster.com, “fluoroscope”. The radiopaque markers and fluoroscope disclosed by DiCaprio do not disclose or suggest the illumination of the outer surfaces of the visual marker, and means for releasably securing the prosthesis by non-X-ray containing light defined by claim 1, as amended herein. Accordingly, the rejection of claim 1 based on Strecker in view of DiCaprio should be withdrawn, and such action is requested.

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Claims 2 to 4, 8 to 14, 36

Claims 2 to 4, 8, and 12 to 14 have been rejected under 35 U.S.C. § 103(a) based on Strecker in view of DiCaprio (Office Action, p. 2 to 3). Claims 2 to 4, 8, and 12 to 14 depend from claim 1, as amended herein, and thereby contain all of the limitations thereof. Accordingly, the rejections of claims 2 to 4, 8, and 12 to 14 should be withdrawn for the same reasons as for claim 1, and such action is requested.

Claims 9 to 11 have been rejected under 35 U.S.C. § 103 based on Strecker “as modified by” DiCaprio, and further in view of U.S. Patent No. 5,480,423 (Ravenscroft) (Office Action, p. 3). Claims 9 to 11 depend from claim 1, as amended herein, and thereby contain all of the limitations thereof. Accordingly, the rejections of claims 9 to 11 should be withdrawn for the same reasons as for claim 1, and such action is requested.

Claim 36 has been rejected under 35 U.S.C. § 103 based on Strecker “as modified by” DiCaprio, and further in view of U.S. Patent No. 5,792,144 (Fischell et al.) (Office Action, p. 3 to 4). Claim 36 depends from claim 1, as amended herein, and thereby contains all of the limitations thereof. Accordingly, the rejection of claim 36 should be withdrawn for the same reasons as for claim 1, and such action is requested.

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Claim 23

Claim 23 has been rejected under 35 U.S.C. § 103(a) based on Strecker in view of DiCaprio (Office Action, p. 2). Claim 23, as amended herein, defines an apparatus for use by an operator in a cavity of a mammalian body with a scope having a distal face providing a field of view. The flexible elongate member has a distal extremity adapted for extending into the cavity, and a proximal extremity accessible from outside of the mammalian body when the distal extremity is disposed in the cavity. The apparatus includes an expandable prosthesis having a length, and first and second ends. A means for releasably securing the prosthesis to the distal extremity of the flexible elongate member extends along substantially the entire length of the prosthesis in a repeating pattern. A visual marker has an outer surface which, when illuminated by non-X-ray containing light, has a first color. The visual marker overlies the prosthesis intermediate the first and second ends, and is capable of being seen by the operator in the field of view. The visual marker is secured to one of the distal extremity of the flexible elongate member and the prosthesis for facilitating placement of the prosthesis in the mammalian body. The means for releasably securing the prosthesis has an outer surface which, when illuminated by non-X-ray containing light, has a second color. The first color of the visual marker is visually distinct from the second color of the repeating pattern of the means for releasably securing.

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The illumination of the outer surfaces of the visual marker, and means for releasably securing the prosthesis by non-X-ray containing light is disclosed in the above-identified application, at p. 5, lines 4 to 6, p. 8, lines 1 to 2.

The illumination of the outer surfaces of the visual marker, and means for releasably securing the prosthesis by non-X-ray containing light defined by claim 23, as amended herein, is not disclosed or suggested by Strecker in view of DiCaprio for the same reasons as for claim 1, as amended herein. Accordingly, the rejection of claim 23 based on Strecker in view of DiCaprio should be withdrawn, and such action is requested.

Claims 26, 27, 37

Claims 26 and 27 have been rejected under 35 U.S.C. § 103(a) based on Strecker in view of DiCaprio (Office Action, p. 2). Claims 26 and 27 depend from claim 23, as amended herein, and thereby contain all of the limitations thereof. Accordingly, the rejections of claims 26 and 27 should be withdrawn for the same reasons as for claim 23, and such action is requested.

Claim 37 has been rejected under 35 U.S.C. § 103 based on Strecker "as modified by" DiCaprio, and further in view of U.S. Patent No. 5,792,144 (Fischell et al.) (Office Action, p. 3 to 4). Claim 37 depends from claim 23, as amended herein, and thereby contains all of the

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limitations thereof. Accordingly, the rejection of claim 37 should be withdrawn for the same reasons as for claim 23, and such action is requested.

Claim 30

Claim 30 has been rejected under 35 U.S.C. § 103(a) based on Strecker in view of DiCaprio (Office Action, p. 2). Claim 30, as amended herein, defines an apparatus for use by an operator in a cavity of a mammalian body with a scope having a distal face providing a field of view. A flexible elongate member has a distal extremity adapted for extending into the cavity, and a proximal extremity accessible from outside of the mammalian body when the distal extremity is disposed in the cavity. The apparatus includes an expandable prosthesis, and a means for releasably securing the prosthesis to the distal extremity of the flexible elongate member. A visual marker has an outer surface which, when illuminated by non-X-ray containing light, has a first color such that the visual marker is capable of being seen by the operator under direct visualization. The visual marker overlies the prosthesis, and is distinct from the means for releasably securing for facilitating placement of the prosthesis in the mammalian body. The means for releasably securing for facilitating placement of the prosthesis has an outer surface which, when illuminated by non-X-ray containing light, has a second color. The second color is visually distinct from the first color of the visual marker.

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The illumination of the outer surfaces of the visual marker, and means for releasably securing the prosthesis by non-X-ray containing light is disclosed in the above-identified application, at p. 5, lines 4 to 6, p. 8, lines 1 to 2.

The illumination of the outer surfaces of the visual marker, and means for releasably securing the prosthesis by non-X-ray containing light defined by claim 30, as amended herein, is not disclosed or suggested by Strecker in view of DiCaprio for the same reasons as for claim 1, as amended herein. Accordingly, the rejection of claim 30 based on Strecker in view of DiCaprio should be withdrawn, and such action is requested.

Claims 33, 35, 38

Claims 33 and 35 have been rejected under 35 U.S.C. § 103(a) based on Strecker in view of DiCaprio (Office Action, p. 2). Claims 33 and 35 depend from claim 30, as amended herein, and thereby contain all of the limitations thereof. Accordingly, the rejections of claims 33 and 35 should be withdrawn for the same reasons as for claim 30, and such action is requested.

Claim 38 has been rejected under 35 U.S.C. § 103 based on Strecker “as modified by” DiCaprio, and further in view of U.S. Patent No. 5,792,144 (Fischell et al.) (Office Action, p. 3 to 4). Claim 38 depends from claim 30, as amended herein, and thereby contains all of the

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limitations thereof. Accordingly, the rejection of claim 38 should be withdrawn for the same reasons as for claim 30, and such action is requested.

The United States Patent and Trademark Office is authorized and requested to charge all fees required for entry of the present Amendment in the above-identified application and consideration thereof to the Deposit Account No. 08-2461. Also, if a fee has been overpaid, the U.S. Patent and Trademark Office is authorized and requested to credit the fee to the Deposit Account No. 08-2461.

If the Examiner has any questions regarding the above-identified application, the Applicants' Attorney, Gordon F. Belcher, is requested to be contacted at the telephone number below.

Respectfully submitted,



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